In the High Court of Uttaranchal at Nainital.

Criminal Revision No.142/2001
(Old No. 599 of 1991)

Mahmmod Hasan Khan …Revisionist.

Vs.

State of U.P. ..Respondent.

Hon'ble Irshad Hussain, J.

Heard Sri C.K. Sharma, learned counsel for the revisionist and Sri A. Rab learned Additional Government Advocate and perused the impugned judgment.

2- This revision under section 397/401 of the Code of Criminal Procedure (for short 'Code') is directed against the judgment and order dated 30-1-1991 passed by Sessions Judge, Almora whereby the appeal preferred by the revisionist against the order of the District Magistrate dated 9-3-1990 was dismissed.

3- The Ambassador Car of the revisionist bearing registration no. U.S.N. 2589 was confiscated after drawing the proceedings under section 72 of the Excise Act. The option was given to have the vehicle released in case fine of Rs. 15,000/- was being paid by the owner-revisionist. On appeal being preferred against the order passed by the District Magistrate the further evidence was given before the Sessions Judge in the form of the affidavit of the garage owner Ram Bahadur to the effect that the said vehicle was brought to his garage for repairs but it was hired by some other person named as Javed on the pretext of use of the same in some marriage function. The learned Sessions Judge took note of the fact that there was no evidence of entrustment of the said vehicle to the garage owner for repair. The learned counsel for the revisionist submitted that usually such a receipt is not obtained as and when any vehicle is given for repair. We are not concerned with what is the practice as and when the vehicle is given for repair but to prove that if so happened legal evidence was necessary and which was not forthcoming from the side of the

revisionist-owner. The learned Sessions Judge therefore made no error in rejecting the contention of the revisionist-appellant.

4- In view of above it is evident that both the courts below have considered the evidence on record properly and there being no merit in this revision the same is hereby dismissed.

(Irshad Hussain, J.)

Dated: 7-4-2004

ISB